

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STATE OF OHIO, ex rel.
DAVE YOST
OHIO ATTORNEY GENERAL

Plaintiff,

v.

JOHN G. BREEN, et al.

Defendants.

CASE NO. 2:16-cv-00802

CHIEF JUDGE SARGUS

MAGISTRATE JUDGE JOLSON

STATE OF OHIO'S MOTION TO LIFT STAY

Plaintiff, the State of Ohio (the “State”), submits this Motion respectfully requesting the Court to lift the stay of these proceedings and reopen this case. On March 11, 2019, the bench trial in this case concluded. Shortly thereafter—but before the Court issued its decision—all parties jointly filed a motion to stay proceedings. The purpose of this request was to facilitate settlement negotiations between Trabue Dublin, Mr. Dick, and the State. The Court granted the motion and filed an order staying the case until December 16, 2019. The Court subsequently issued an order administratively closing this case during the pendency of the stay. Since approximately July 2019, the parties have periodically submitted Joint Status Reports to the Court via email updating the Court on the status of negotiations. The parties last submitted a status report on September 1, 2020.

It has become clear over the year and a half since the parties made their original request for stay that settlement is not a realistic possibility. Consequently, the State is asking that the Court lift the stay and reopen the case. The State believes that the only significant outstanding issues in this case include the Breen Defendants' responsibility for: (1) injunctive relief; (2) past

response costs; and (3) future response costs. It is the State's understanding that the Court is ready to issue its final decision in this case. Therefore, the State respectfully requests that the Court terminate the stay, reopen the case, and issue its ruling in this matter.

Respectfully submitted,

DAVE YOST
Ohio Attorney General

s/ Karrie P. Kunkel

Karrie P. Kunkel (0089755) *Trial Attorney*

Janean R. Weber (0083960) *Co-Counsel*

Assistant Attorney General

Environmental Enforcement Section

30 East Broad Street, 25th Floor

Columbus, Ohio 43215

Phone: (614) 466-2766

Fax: (614) 644-1926

Karrie.Kunkel@OhioAttorneyGeneral.gov

Janean.Weber@OhioAttorneyGeneral.gov

Counsel for Plaintiff State of Ohio

CERTIFICATE OF SERVICE

This certifies that on November 6, 2020, I served State of Ohio's Motion to Lift Stay by filing through the Court's CM/ECF system, which electronically notified:

John E. Breen
Breen Law
7761 Chetwood Close, Suite 100
New Albany, Ohio 43054
jbbreenlaw@aol.com
*Counsel for Defendants John G. Breen,
Janice Breen, and John E. Breen*

Michael J. O'Callaghan
Shumaker Loop & Kendrick., LLP
41 S. High Street, Suite 2400
Columbus, Ohio 43215-6104
mocallaghan@shumaker.com
daxelrod@shumaker.com
mmiller@shumaker.com
Counsel for Trabue Dublin, LLC

James M. Schottenstein
Schottenstein Legal Services Co., LPA
492 S. High Street, Suite 200
Columbus, Ohio 43215
jim@schottensteinlaw.com
Counsel for Donald W. Dick

s/ Karrie P. Kunkel
Karrie P. Kunkel (0089755) *Trial Attorney*
Janean R. Weber (0083960) *Co-Counsel*
Assistant Attorneys General